

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HUSBANDS FOR RENT, INC.,)	
)	
Plaintiff(s),)	No. C04-1603 BZ
)	
v.)	ORDER DENYING PLAINTIFF'S
)	MOTION FOR SUMMARY
HANDY HUSBANDS FOR RENT,)	ADJUDICATION OF
INC.,)	DEFENDANT'S AFFIRMATIVE
)	DEFENSE
Defendants.)	
_____)	

On May 25, 2005, plaintiff Husbands for Rent, Inc. moved for summary adjudication on defendant's affirmative defense of prior use under California Business and Professions Code § 14342. Section 14342 states that "[n]o service mark ... registered pursuant to this chapter shall be enforced under the provisions of Section 14320, 14330, or 14340, or Section 350 of the Penal Code, against any party who has adopted and lawfully used the same or a confusingly similar service mark ... from a date prior to

1 the effective date of registration of the service mark ...
2 under this chapter." Cal. Bus. & Prof. Code § 14342
3 (emphasis added). Plaintiff's own evidence suggests that
4 defendant's earliest use of the mark was in 2000, while
5 plaintiff did not register the mark until 2002.
6 Accordingly, **IT IS HEREBY ORDERED** that plaintiff's motion
7 for summary adjudication with respect to defendant's
8 affirmative defense of prior use under California Business
9 and Professions Code § 14342 is **DENIED**.

10 Dated: June 21, 2005

11 /s/ Bernard Zimmerman

12 Bernard Zimmerman
13 United States Magistrate Judge

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